
State Government Committee

HB 1802

Brief Description: Clarifying fiscal impact of initiatives.

Sponsors: Representatives Clements, Moeller, Wallace, Quall, Linville, Hudgins and Edwards.

Brief Summary of Bill

- Requires the text of all initiatives that have a fiscal impact to specify the funding source or the spending reduction.
- Creates the initiative fiscal review committee, appointed by the Secretary of State.
- Requires the initiative fiscal review committee to hold hearings in each congressional district and issue a report on the fiscal impact of each initiative certified for the ballot.
- Changes the ethics laws to allow officials to make objective and fair presentations of facts relevant to ballot measures, and to participate in the initiative fiscal review hearings.

Hearing Date: 2/20/03

Staff: Katie Blinn (786-7114).

Background:

Initiatives:

The authority for the people to legislate was established in 1911 in the State Constitution, Article II, section 1. Any legal voter may file with the Secretary of State (Secretary) an initiative to the people, an initiative to the Legislature, or a referendum. Once the text of an initiative is filed with the Secretary it must be submitted to the Code Reviser for review of its form and style. The Code Reviser can recommend revisions or alterations, but such recommendations are advisory only and may be rejected by the sponsor. The Secretary then assigns the measure a serial number and the Attorney General writes a 75-word summary and the ballot title, which consists of a subject statement, a 30-word concise description, and a question. The ballot title becomes the title of the measure on all petitions, ballots and other material, and the summary appears after the ballot title on all petitions. Each petition must have lines for the signatures on one side, and the measure printed on the other side. When

the person proposing the measure has enough signatures to exceed the 4 percent or 8 percent requirement, he or she files the petitions with the Secretary for certification. The Secretary must verify and canvass the names on the petitions. If an initiative to the people or referendum is found sufficient, the Secretary certifies to the county auditors the serial number and ballot title of each initiative and each referendum to be voted on at the next general election.

Initiative Fiscal Review:

The Office of Financial Management (OFM) must prepare a fiscal impact statement for each certified ballot measure. The fiscal impact statement must describe the projected increases or decreases in revenues, costs, expenditures, or indebtedness that state and local governments will experience if a ballot measure is approved. A 100-word summary of the fiscal impact statement must be printed in the voters' pamphlet.

Ethics Laws:

The ethics laws prohibit state and local officials and their employees from using, authorizing the use of, or acquiescing in the use of public facilities to assist a candidate or ballot proposition campaign. Exceptions to the rule include:

- Action taken at an open public meeting by members of an elected legislative body to express a collective decision, to actually vote on a motion, proposal or ordinance, or to support or oppose a ballot proposition. Notice of the meeting must include the title and number of the ballot proposition, and members of the public and the legislative body must be allowed equal opportunity to express opposing views;
- A statement by an elected official supporting or opposing a ballot proposition made at an open press conference or made in response to an inquiry; and
- Activities that are part of the "normal and regular conduct" of the office or agency.

In statute, state officials are afforded an additional exception of de minimis use of public facilities incidental to the preparation or delivery of self-initiated communications of their views on those ballot propositions that foreseeably may affect a matter that falls within their responsibilities. However, the Legislative Ethics Board has ruled that the "normal and regular conduct" of the Legislature does not include providing unsolicited information or views on initiatives to the people or referendum measures. The only permissible self-initiated comments on ballot measures considered part of the "normal and regular conduct" exception are measures that have gone through the Legislature: initiatives to the Legislature, alternative legislative measures, and referendum bills.

On the other hand, the Public Disclosure Commission (PDC) has adopted a rule that does allow local officials to make an objective and fair presentation of facts relevant to a ballot proposition if such action is part of the normal and regular conduct of the office or agency. The information from the local government cannot advocate how to vote on the measure.

Summary of Bill:

Initiatives:

If an initiative to the people or an initiative to the Legislature requires public funds be spent for its implementation, the text of the initiative must specify an increase in an existing state revenue source, provide a new tax or fee, or a combination thereof, adequate to fully

implement the measure. If an initiative to the Legislature or an initiative to the people repeals or restricts the collection of an existing tax or fee, reduces the rate or amount of a tax or fee, or creates or extends an exemption for a tax or fee, the text of the initiative must specify how the reductions are to be reflected in the affected budgets.

Initiative Fiscal Review Committee:

An Initiative Fiscal Review Committee (Committee) is created, appointed by the Secretary following consultation with the Governor and Attorney General. The committee members must be appointed by January 1 each year and may include two lawyers, two people experienced in analyzing the fiscal impacts of legislation, two economists, two professors, two researchers, two members of the public, and one retired judge. Between August 1 and September 1 each year, the committee must hold public hearings in each congressional district of the state on each initiative to the people certified for the general election ballot. The hearings must provide an opportunity for the public and proponents and opponents of the initiatives to comment. State and local officials may use public facilities to prepare comments for the hearings on the impact of the initiatives.

The committee shall examine the fiscal impact of each initiative and issue a report no later than September 30 reflecting the findings of a majority of the committee on the fiscal impact of each initiative. A 25-word brief summary of the report shall be printed on the general election ballots, and a 100-word extended summary shall be printed in the voters' pamphlet. The full report, which may include a minority report, must be available to the public upon request. The fiscal impact statement prepared by the OFM and currently printed in the voters' pamphlet is no longer printed in the voters' pamphlet.

Ethics Laws:

For state officials and employees, a new exception to the ethics law is created allowing them to use public facilities to prepare and deliver objective and neutral self-initiated communications consisting of explanatory information on the impact of any ballot proposition that foreseeably may affect a matter that falls within their responsibilities. The exception applies to all ballot measures, not just those that go through the Legislature. The use of public facilities is not limited to de minimis use, but is limited to communicating explanatory information, rather than views. The portions of existing law allowing de minimis use of public facilities for expressing views are removed to more accurately reflect interpretations of the law by the Legislative Ethics Board.

For local officials and employees, the ethics exception currently provided in the PDC rule is provided in statute. It allows local officials to make an objective and fair presentation of facts relevant to the impact a ballot proposition may have on the office or agency if such activities are part of the normal and regular conduct of the office or agency.

An additional exception to the ethics law is created for both state and local officials that allows them to participate in the initiative fiscal review hearings.

Appropriation: None.

Fiscal Note: Requested on February 11, 2003.

Effective Date: The section requiring initiatives that have a fiscal impact to specify a revenue source or spending reduction takes effect January 1, 2004 if HJR 4208 is approved by voters. The remainder of the bill takes effect ninety days after adjournment of the session in which the bill is passed.